

REMARKS

Claims 1-9 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claims 1-5, drawn to a method of manufacturing a micro tunnel-junction circuit, classified in class 438, subclass 2; and

Group II, claims 6-9, drawn to micro tunnel-junction circuit, classified in class 257, subclass 30.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 1-5. However, it is respectfully requested that the Examiner reconsider the Restriction Requirement since no serious burden would be presented to the Examiner by examining all of the claims in a single application.

As set forth in section 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for proper requirement for Restriction:

1. The inventions must be independent or distinct as claimed; and
2. There must be a serious burden on the Examiner if the Restriction is not required.

Applicants respectfully submit that a serious burden has not been placed on the Examiner to consider all of the claims in the single application. The Examiner is respectfully requested to consider all of the claims in the present application and to withdraw the Restriction Requirement.

In order to be responsive to the Examiner's Restriction Requirement, claims 1-5 have been elected with traverse. Applicants reserve the right to file a divisional application directed to the non-elected claims at a later date if it is so desired.

Favorable action on the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Paul C. Lewis, Registration No 43,368 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- Attached is a Petition for Extension of Time.
- Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: **July 28, 2009**

Respectfully submitted,

By 
Paul C. Lewis
Registration No.: 43,368
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant